

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

**ANTHONY DERUBEIS  
AND  
MACLYN BURNS**

## Plaintiffs

**V.**

**WITTEN TECHNOLOGIES, INC.**

## Defendant

**CIVIL ACTION NO. 04-11137-RWZ**

**NOTICE OF HARPER GERLACH'S**  
**WITHDRAWAL AS WITTEN COUNSEL**

NOW COMES Gregg Gerlach, Esq. and W. Gary Yeldell, Esq., attorneys with the law firm Harper Gerlach, PL and, pursuant to Local Rule 83.5.2(c) hereby withdraw as attorneys for Defendant Witten Technologies, Inc. (“Witten”) in the captioned matter. The Defendant would show this honorable Court as follows:

1. Plaintiffs Anthony DeRubeis and Maclyn Burns sued Defendant Witten Technologies, Inc. for breach of their employment agreement and for violations of Massachusetts wage payment statute. Witten counterclaimed alleging Plaintiffs misappropriated and misused Witten's confidential information.
2. Witten has been represented by Harper Gerlach, PL, of Jacksonville, Florida and Skoler, Abbott & Presser, P.C., of Springfield, Massachusetts.
3. Recently, Motions Pro Hac Vice have been filed by house counsel for Witten (filed September 16, 2005) and by H. Jerome Strickland of Jones, Cork & Miller, LLP (filed September 21, 2005). Provided this Court grants these pending Motions they, together with Witten's current local counsel, Skoler, Abbott & Presser, P.C., will be representing Witten for the balance of this case.

4. Upon the granting of the Motions Pro Hac Vice, Witten will be represented by excellent firms and very capable counsel. Accordingly, neither Witten nor Plaintiffs will be prejudiced by Harper Gerlach's withdrawal.
5. Witten approves the withdrawal and substitution of counsel, which will cause no delay in these proceedings.
6. There are no substantive motions pending before the Court.
7. No trial date has been set in this case.
8. A second Scheduling Conference has been set for February 8, 2006 after the conclusion of discovery in this case, which has just commenced. That conference will be attended by Witten's counsel of record.
9. This Notice complies with Local Rule 83.5.2(c) and Gregg Gerlach, Esq., W. Gary Yeldell and the law firm of Harper Gerlach, PL are hereby withdrawn as counsel of record.

DATED at Jacksonville, Florida, this 3rd day of October, 2005.

Respectfully Submitted,

s/Gregg Gerlach  
Gregg Gerlach, Esq.  
Florida Bar No: 0338140  
W. Gary Yeldell, Esq.  
Florida Bar No: 0357900  
HARPER GERLACH, PL  
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**CERTIFICATE OF SERVICE**

I DO HEREBY CERTIFY that a copy of the above and foregoing Notice of Harper Gerlach's Withdrawal as Witten Counsel has been served on this date upon the counsel indicated below by First Class, U.S. Mail, postage pre-paid.

Daniel M. Rabinovitz, Esq.  
Menard, Murphy & Walsh LLP  
60 State Street – 34<sup>th</sup> Floor  
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Jay Presser, Esq.  
Amy Royal, Esq.  
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One Monarch Place  
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Erin Lewis, Esq.  
Witten Technologies, Inc.  
3638 Overlook Ave.  
Macon, GA 31204

Dated this 3rd day of October, 2005.

s/Gregg Gerlach  
Gregg Gerlach